

ARTICLE 16.5
POLLUTION PREVENTION

25-16.5-101. Short title.

This article shall be known and may be cited as the "Pollution Prevention Act of 1992".

Source: L. 92: Entire article added, p. 1326, § 1, effective July 1.

25-16.5-102. Legislative declaration - state policy on pollution prevention.

(1) The general assembly hereby finds and declares that:

- (a) Colorado is blessed by natural beauty and an excellent quality of life, which should be maintained;
- (b) The prevention of pollution will assist in maintaining quality of life in our state;
- (c) There are resources and expertise in Colorado, including industry, government, and citizen groups, which can provide information and assistance to promote the cost-effective prevention of pollution;
- (d) There are opportunities to reduce or prevent pollution through voluntary changes in procurement, production, operations, and use of raw materials throughout the state;
- (e) The purpose of this article is to create a cooperative partnership among business, agriculture, the environmental community, and the department of public health and environment in which technical assistance, outreach, and education activities are coordinated and conducted to achieve pollution prevention and waste reduction and source reduction;
- (f) The prevention of pollution is preferable to treatment and disposal of toxic substances and is the cornerstone of the future of environmental management.

(2) The general assembly, therefore, determines and declares that the state policy of Colorado shall be that pollution prevention is the environmental management tool of first choice. The state policy shall be that: Pollution should be prevented or reduced at the source by means including the reduction in the production or use of hazardous substances; pollution that cannot be prevented should be recycled in an environmentally safe manner; pollution that cannot be prevented or recycled should be treated in an environmentally safe manner; and disposal or other releases into the environment should be employed only as a last resort and should be conducted in an environmentally safe manner.

Source: L. 92: Entire article added, p. 1326, § 1, effective July 1. L. 94: (1)(e) amended, p. 2793, § 535, effective July 1.

25-16.5-103. Definitions.

As used in this article, unless the context otherwise requires:

(1) "Advisory board" means the pollution prevention advisory board created in section 25-16.5-104.

- (2) "By-product" means all toxic or hazardous substances, other than a product, that are generated from production processes prior to recycling, handling, treatment, disposal, or release.
- (3) "Department" means the department of public health and environment.
- (4) "Federal act" means the federal "Emergency Planning and Community Right-to-know Act of 1986", 42 U.S.C. sec. 11001 et seq., Title III of the federal "Superfund Amendments and Reauthorization Act of 1986", P.L. 99-499, as amended.
- (5) "Hazardous substance" or "toxic substance" means those chemicals defined as hazardous substances under section 313 of the federal "Superfund Amendments and Reauthorization Act of 1986" (SARA Title III) and sections 101(14) and 102 of the federal "Comprehensive Environmental Response, Compensation, and Liability Act" (CERCLA), as amended.
- (6) "Pollution prevention" means any practice which reduces the use of any hazardous substance or amount of any pollutant or contaminant prior to recycling, treatment, or disposal, and reduces the hazards to public health and the environment associated with the use or release or both of such substances, pollutants, or contaminants.
- (7) "Production process" means a process, line, method, activity, or technique, or a series or combinations of such processes, necessary to and integral to making a product or providing a service, and does not include waste management activities.
- (8) "Small and medium-sized business" means a business which has five hundred or fewer employees and which has gross annual sales of seventy-five million dollars or less.
- (9) "Toxics use reduction" means changes in production processes, products, or raw materials that reduce, avoid, or eliminate the use of toxic or hazardous substances and the generation of hazardous by-products per unit of production, so as to reduce the overall risks to the health of workers, consumers, or the environment without creating new risks of concern.
- (10) "Waste management" means the recycling, treatment, handling, transfer, controlled release, cleanup, and disposal of waste, and the containment of accidents and spills.
- (11) "Waste reduction" and "source reduction" mean any practice which reduces the amount of any hazardous substances, pollutant, or contaminant entering any waste stream or otherwise being released into the environment (including fugitive emissions) prior to recycling, treatment, or disposal, and reduces the hazards to public health and the environment associated with the release of such substances, pollutants, or contaminants. The terms include equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control. The term "source reduction" does not include any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service.

Source: L. 92: Entire article added, p. 1327, § 1, effective July 1. L. 94: (3) amended, p. 2793, § 536, effective July 1.

25-16.5-104. Pollution prevention advisory board - creation.

- (1) There is hereby created in the department of public health and environment a pollution prevention advisory board for the purposes of providing overall policy guidance, coordination, and advice to the department on pollution prevention activities and for carrying out the duties specified in section 25-16.5-105. The advisory board shall consist of fifteen members to be appointed by the governor. The members appointed shall include representatives of businesses, agriculture, environmental groups, academic institutions of higher education, community groups, and local governments. In addition, the governor shall appoint two representatives from state agencies to serve as ex-officio members of the advisory board, with at least one of such appointees to be from the department of public health and environment. In making the appointments, the governor shall provide for geographic diversity. The board shall elect its own chairperson. Members of the advisory board shall serve without compensation.
- (2) Repealed.

Source: L. 92: Entire article added, p. 1328, § 1, effective July 1. L. 95: (2) repealed, p. 116, § 3, effective March 31; (2) repealed, p. 181, § 2, effective April 7. L. 2005: (1) amended, p. 287, § 34, effective August 8.

25-16.5-105. Powers and duties of the advisory board - advanced technology fund.

- (1) The advisory board shall have the following powers and duties:
- (a) To provide overall policy guidance, coordination, and advice in the development and implementation of the pollution prevention activities of the department;
 - (b) To support nonregulatory public and private efforts that promote the prevention of pollution in this state;
 - (c) To develop pollution prevention goals and objectives;
 - (d) To review environmental regulatory programs, laws, and policies to identify pollution prevention opportunities and incentives;
 - (e) To provide direction for pollution prevention outreach, education, training, and technical assistance programs;
 - (f) Repealed.
 - (g) To contract with a provider or providers, which may include the department, to provide pollution prevention activities as described in section 25-16.5-106;
 - (h) To award grants from the recycling resources economic opportunity fund, referred to in this section as the "fund", in accordance with the requirements of section 25-16.5-106.7 and to develop criteria for awarding grants from the fund in accordance with the provisions of section 25-16.5-106.7 (3) (b). Grant awards shall be made, and the criteria for awarding grants shall be developed, in consultation with the pollution prevention advisory board assistance committee created in section 25-16.5-105.5 (2), referred to in this section as the "committee".
 - (i) To make loans from the fund in accordance with the provisions of section 25-16.5-106.7 (5);
 - (j) To receive and expend gifts, grants, and bequests from any source, public or private, specifically including state and federal moneys and other available moneys,

to fund grants made available from the fund in accordance with the provisions of section 25-16.5-106.7;

(j.5) To receive and expend gifts, grants, and bequests from any source, public or private, specifically including state and federal moneys and other available moneys, to provide research funding and technology transfer capital from the advanced technology fund pursuant to paragraph (b) of subsection (2) of this section;

(k) In consultation with the committee, to develop a formula for paying a rebate to any local government or to any nonprofit or for-profit entity that recycles any commodity. The rebate authorized by this paragraph (k) shall be paid on commodities recycled on a per-ton basis with differential rates for different commodities. Any rebate shall be paid out of moneys collected from the additional fee imposed by section 25-17-202 (1) (a) (IV) that is allocated to the recycling resources economic opportunity fund created in section 25-16.5-106.5, and from the user fee imposed by section 25-16-104.5 (3.9) (a) to fund the recycling resources economic opportunity program created in section 25-16.5-106.7; except that, for any one state fiscal year, the amount rebated pursuant to this paragraph (k) shall equal one-fourth of the amount of moneys collected in the fund in the immediately previous state fiscal year. Applications to the advisory board for any rebate may be submitted after the last day of the month following the end of each calendar quarter for recycling activities undertaken in such calendar quarter, beginning with the calendar quarter ending on December 31, 2007; except that the period for the first rebate payment shall cover July 1, 2007, through December 31, 2007.

(l) To make recommendations, as requested, on policy matters related to sustainable resource and discarded materials management; and

(m) (I) In accordance with the provisions of subparagraph (II) of this paragraph (m), to submit an annual report to the department of local affairs, the department, the governor's office of energy management and conservation, and the standing committee of reference in each house of the general assembly exercising jurisdiction over matters concerning public health and the environment.

(II) The annual report required by subparagraph (I) of this paragraph (m) shall include a calculation of the proportion of solid waste generated in the state in the previous year that was diverted to other uses and the number of jobs created and any other economic impacts resulting from grants made from the fund by the advisory board pursuant to paragraph (h) of this subsection (1) and section 25-16.5-106.7 (3).

(2) (a) There is hereby created in the state treasury the advanced technology fund. The fund shall consist of moneys transferred thereto pursuant to section 25-17-202 (3), any moneys available to the board pursuant to paragraph (j.5) of subsection (1) of this section that the board transmits to the state treasurer to be credited to the fund, and any moneys appropriated to the fund by the general assembly. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. The moneys in the fund are hereby continuously appropriated to the board for the purposes specified in paragraph (b) of this subsection (2).

(b) The board shall expend moneys in the advanced technology fund to finance research, including research regarding the use of waste tires for noise mitigation along state highways as prioritized by the department of transportation pursuant to section 43-2-402 (5) (b), C.R.S., that will increase or improve recycling techniques

and technology or create marketable uses for discarded materials, including strategies pertaining to waste tires, and address problems caused by inappropriate disposal of solid waste materials, including waste tire stockpiles, making use where possible of the research capacities of Colorado institutions of higher education. Grant awards shall be made, and the criteria for awarding grants shall be developed in consultation with the pollution prevention advisory board assistance committee created in section 25-16.5-105.5 (2), enacted by House Bill 07-1288, enacted at the first regular session of the sixty-sixth general assembly. The board, in consultation with the committee shall adopt a policy for the expenditure of such moneys, which shall contain priorities and the criteria for providing research funding and technology transfer.

(c) Notwithstanding the provisions of section 24-1-136 (11), C.R.S., the board shall biennially report to the general assembly about the status of financing the efforts described in paragraph (b) of this subsection (2), including an assessment of the activities of individuals or entities receiving grants from the advanced technology fund.

(d) Notwithstanding any provision of this subsection (2) to the contrary, on March 5, 2003, the state treasurer shall deduct eight hundred eighty-six thousand one hundred eighty-nine dollars and fifty-one cents from the advanced technology fund and transfer such sum to the general fund.

(e) Notwithstanding any other provision of this subsection (2), on May 31, 2007, the state treasurer shall transfer forty percent of the unencumbered balance of the advanced technology fund to the innovative higher education research fund created in section 23-19.7-104, C.R.S.

Source: L. 92: Entire article added, p. 1329, § 1, effective July 1. L. 95: Entire section amended, p. 181, § 3, effective April 7. L. 96: (1)(f) repealed, p. 1260, § 164, effective August 7. L. 2007: (1)(j.5) and (2) added, p. 1602, §§ 2, 3, effective May 31; (1)(h), (1)(i), (1)(j), (1)(k), (1)(l), and (1)(m) added, p. 1135, § 4, effective July 1.

25-16.5-105.5. Pollution prevention advisory board assistance committee - appointments - membership - definitions.

(1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the pollution prevention advisory board assistance committee created in subsection (2) of this section.

(b) "Fund" means the recycling resources economic opportunity fund created in section 25-16.5-106.5 (1).

(2) (a) There is hereby created in the department the committee that shall assist the advisory board in undertaking the powers and duties given to the board as specified in this article.

(b) The committee shall consist of thirteen members as described in paragraph (c) of this subsection (2), each of whom shall be appointed by the executive director of the department no later than September 1, 2007.

(c) The members appointed to the committee shall include representatives of industry, nonprofit and community organizations, state agencies, and local governments in accordance with the following:

- (I) One member of the committee shall be a representative of the department.
- (II) One member of the committee shall be a representative of the Colorado office of economic development created in section 24-48.5-101 (1), C.R.S.
- (III) One member of the committee shall be a representative of the governor's office of energy management and conservation.
- (IV) Two members of the committee shall represent counties that operate county solid waste or recycling facilities, one member of which shall represent a county that is predominately rural in character and the other of which shall represent a county that is predominately urban in character.
- (V) Two members of the committee shall represent municipalities that operate municipal solid waste or recycling facilities, one member of which shall represent a municipality that is located in a county that is predominately rural in character and the other of which shall represent a municipality that is located in a county that is predominately urban in character.
- (VI) The remaining six members of the committee shall be balanced equally to the extent practicable from among representatives of nonprofit and for-profit entities engaged in recycling or composting through the collection of recyclable material, the manufacturing of products containing recycled material, the marketing of products manufactured with recycling material, or other entities whose mission is directed to advance and promote recycling and composting through educational programs, technical assistance, research, or community outreach.
- (d) The terms of members of the committee shall be for four years; except that the initial terms of seven of the members of the committee shall, in the discretion of the executive director of the department, be for two years. All appointments made following the expiration of the initial two-year terms shall be for four years. Members of the committee shall serve no more than three consecutive four-year terms on the committee. No more than six members of the committee shall be from the same political party.
- (e) Any vacancy on the committee shall be filled for the unexpired term in the same manner as the original appointment. Any member of the committee may be removed by the executive director of the department at any time and for any reason.
- (f) The committee shall elect a chairperson and vice-chairperson by majority vote of the members. The members of the committee shall serve without compensation; except that members of the committee shall receive a per diem amount of ninety-nine dollars for each day actually engaged in the duties of the committee and shall be reimbursed for necessary traveling and other reasonable expenses incurred in the performance of their official duties.
- (3) The committee shall have the following powers and duties:
 - (a) To make recommendations to the advisory board in connection with the awarding of grants by the board from the fund pursuant to section 25-16.5-105 (1) (h) and to make recommendations to the board on the development of criteria to guide the board in making decisions concerning the awarding of grants pursuant to section 25-16.5-106.7 (3) (b);
 - (b) To make recommendations to the advisory board in connection with the making of loans by the board from the fund pursuant to section 25-16.5-105 (1) (i);

- (c) To make recommendations to the advisory board in connection with the receipt or expenditure of gifts, grants, and bequests by the board pursuant to section 25-16.5-105 (1) (j);
- (d) To make recommendations to the advisory board, as requested, on policy matters related to sustainable resource and discarded materials management;
- (e) To make recommendations to the advisory board on the formula created for paying rebates to entities recycling commodities pursuant to section 25-16.5-105 (1) (k); and
- (f) To make additional recommendations to the advisory board on such other matters as will further the purposes of this article.

Source: L. 2007: Entire section added, p. 1136, § 5, effective July 1.

25-16.5-106. Pollution prevention activities program.

(1) The advisory board shall contract with a provider or providers, which may include the department, to develop a pollution prevention activities program. The pollution prevention activities program shall be carried out to make pollution prevention the environmental management tool of first choice, and the provider which provides the services pursuant to contract shall have the following powers and duties:

- (a) To provide education and training about pollution prevention to businesses that use or produce hazardous substances and their employees, local and state governments, and the general public. Such education and training may include pollution prevention techniques, total cost analysis of toxics use and pollution prevention techniques, economic evaluation methods of such techniques, and management and employee involvement and public involvement.
- (b) To expand the pollution prevention technical library and resource center providing access to information on new products, production process techniques, and raw materials for production related to pollution prevention, technical reports, fact-sheets, case studies, articles, and other reference materials;
- (c) To collect and evaluate information on toxics use reduction and waste reduction and the amount of hazardous substances used in Colorado as the basis for establishing pollution prevention priorities and measuring progress in achieving pollution prevention program objectives;
- (d) To conduct an evaluation of pollution prevention activities in this state analyzing existing data to determine what priority should be given to different hazardous substances and production processes;
- (e) To prepare a report with data on the amount of hazardous substances, pollutants, and contaminants used in Colorado and the amount of pollution released in Colorado prior to recycling, treatment, or disposal. Such report shall be developed from existing sources and updated every two years and used as a tool to measure the success of the pollution prevention activities program and the technical assistance program in Colorado.
- (f) To develop other methods to measure the success of pollution prevention projects at facilities. Methods shall be developed to measure the use of hazardous substances

for production processes and the amount of waste prior to waste management practices.

(g) To cooperate with the advisory board in the performance of duties assigned to the board, including the review of environmental regulatory programs, laws, and policies for identifying pollution prevention opportunities and incentives;

(h) To coordinate with any of the academic institutions or other recipients of grants under the technical assistance program pursuant to section 25-16.5-107.

Source: L. 92: Entire article added, p. 1329, § 1, effective July 1.

25-16.5-106.5. Recycling resources economic opportunity fund - creation - repeal.

(1) The recycling resources economic opportunity fund is hereby created in the state treasury, referred to in this section as the "fund". The fund shall consist of moneys collected for the fund pursuant to sections 25-16-104.5 (3.9) (b) and 25-17-202 (1) (a) (IV), and credited to the fund in accordance with the provisions of section 25-16-104.5 (3.9) (b), C.R.S., any moneys appropriated to the fund by the general assembly, and all other moneys that may be available to the fund, including moneys made available from gifts, grants, or bequests. All interest derived from the deposit of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) Any moneys generated from the imposition of solid waste user fees pursuant to sections 25-16-104.5 (3.9) and 25-17-202 (1) (a) (IV) shall be annually appropriated to the department for allocation to the advisory board for the purpose of funding the recycling resources economic opportunity activities authorized by section 25-16.5-106.7, as well as any administrative costs associated therewith, including without limitation the grants authorized to be made under section 25-16.5-106.7 (3).

(3) Moneys in the fund shall be used to pay for administrative costs incurred by the department in implementing the provisions of House Bill 07-1288 as enacted by the first regular session of the sixty-sixth general assembly.

(4) Except as otherwise provided in this section, no moneys in the fund shall be used for the administration, implementation, or enforcement of any state law or rule.

(5) This section is repealed, effective July 1, 2010.

Source: L. 2007: Entire section added, p. 1138, § 5, effective July 1.

25-16.5-106.7. Recycling resources economic opportunity program - grants - loans - definitions - repeal.

(1) As used in this section, unless the context otherwise requires:

(a) "Committee" means the pollution prevention advisory board assistance committee created in section 25-16.5-105.5.

(b) "Fund" means the recycling resources economic opportunity fund created in section 25-16.5-106.5 (1).

(c) "Local government" means a county, home rule or statutory city, town, territorial charter city, or city and county.

(2) There is hereby created the recycling resources economic opportunity program. In connection with the program, the advisory board shall accept proposals from local governments requesting an award of a grant from moneys made available under the fund. Subject to the requirements of this subsection (2), the board may award grants under this section to nonprofit or for-profit organizations or other entities where the application submitted by the organization or entity applying for grant moneys has been approved by the local government within the boundaries of which the organization or entity is located. In awarding grants pursuant to this section, the board may consider proposals that have not been approved by a local government if the entity submitting the proposal provides documentation that the proposal will be beneficial to the community that would be affected by the grant award, the award otherwise satisfies the criteria specified in paragraph (b) of subsection (3) of this section, and the grant is made available for one of the purposes specified in subsection (4) of this section.

(3) (a) The advisory board may award grants from the fund to public and private entities, both nonprofit and for-profit, including without limitation the department and solid waste disposal sites and facilities and their local affiliates that collect the solid waste user fee pursuant to section 25-16-104.5 (3.9).

(b) (I) In consultation with the committee, the advisory board shall develop criteria to guide it in making decisions concerning the awarding of grants to implement the purposes described in subsection (4) of this section. Such criteria shall include without limitation:

(A) The amount of moneys raised for the fund by the region of the state in which the applicant's project is located;

(B) The needs of the community submitting the proposal;

(C) The feasibility of the proposal and sustainability of the project that is the subject of the proposal;

(D) The economic and environmental benefits that would accrue from the proposal, including the creation of markets for recycled materials;

(E) Measurable results; and

(F) Adverse impacts on existing businesses.

(II) In developing the criteria specified in subparagraph (I) of this paragraph (b), the advisory board shall determine priorities for the grants in consultation with the committee.

(4) Moneys may be awarded from the fund to finance grants made available pursuant to subsection (2) of this section for the following purposes:

(a) Recycling, beneficial use, and reuse;

(b) Public-private partnerships that promote waste diversion, recycling, recycling markets, the beneficial use of discarded materials, or other recycling-related uses;

(c) Developing or expanding local economic infrastructure for the sustainable use of discarded materials;

(d) Providing local incentives to develop or expand markets for recycled products;

(e) Developing or expanding local recycling infrastructure;

(f) Undertaking sustainable resource education programs;

(g) Developing or implementing sustainable resource plans or programs for the use or collection of organic matter, household hazardous waste, electronic scrap material, or other discarded materials;

(h) Providing assistance in connection with the development or improvement of integrated waste management plans by local governments;

(i) Cleaning up illegal waste dumping; and

(j) Reducing waste tire stockpiles.

(5) In addition to the purposes specified in subsection (4) of this section, the advisory board may also loan moneys from the fund to public and private entities, both nonprofit and for-profit, including without limitation the department and solid waste disposal sites and facilities and their local affiliates that collect the solid waste user fee pursuant to section 25-16-104.5 (3.9). Moneys may be loaned by the board under this subsection (5) to fund any of the purposes for which the board may award moneys in grants as specified in subsection (4) of this section. Notwithstanding any other provision of this section, for any given state fiscal year, the amount of moneys to be made available in loans pursuant to this subsection (5) shall not be more than ten percent of the amount of moneys allocated to the fund during the immediately previous state fiscal year.

(6) Any grant award or loan made pursuant to this section shall be made complete by means of a contract entered into between the department and the grant or loan recipient that shall specify the conditions for the grant or loan and the requirements and responsibilities of the grant or loan recipient, as applicable.

(7) No grant or loan may be made pursuant to this section until on or after July 1, 2008.

(8) This section is repealed, effective July 1, 2010.

Source: L. 2007: Entire section added, p. 1139, § 5, effective July 1.

25-16.5-107. Technical assistance program.

(1) The advisory board shall develop guidelines on how to allocate the portion of and shall select grant recipients for the moneys in the pollution prevention fund created in section 25-16.5-109 which is available under said section for making grants for the purpose of providing technical assistance to small and medium-sized businesses and to other generators or users of hazardous and toxic substances. Grants may be made to academic institutions, trade associations, and environmental or engineering firms with knowledge of pollution prevention techniques and processes. The advisory board shall develop guidelines for awarding grants to provide technical assistance. In developing such guidelines, the advisory board shall determine priorities for such assistance, including an emphasis on reducing the production processes that use the largest amounts of hazardous substances and an emphasis on assisting small businesses. The advisory board shall select the grant recipients and shall determine the amount of the grant awarded to each recipient. The department shall then award the grants pursuant to this section through a contract entered into between the department and the grant recipient which details the conditions of the grant and the requirements and responsibilities of the grant recipient.

(2) For the purposes of this article, "technical assistance program" means the following types of activities:

- (a) Providing technical assistance and outreach on pollution prevention to small and medium-sized businesses and to other generators or users of toxic substances;
 - (b) Providing on-site toxics use reduction and waste reduction assistance to small and medium-sized businesses and to other generators or users of toxic substances;
 - (c) Providing to businesses, trade associations, public entities, and to other generators or users of toxic substances information on the annual toxics use reduction and waste reduction that could be achieved by using pollution prevention techniques, the annual savings and implementation costs of such techniques, and the period of time necessary to recoup the money spent to implement the pollution prevention techniques;
 - (d) Providing on-site pollution prevention assessments of industrial plant production processes and waste generation, upon request of the affected businesses.
- (3) Technical assistance programs shall be offered to small and medium-sized businesses and to public generators or users of toxic substances without charge.
- (4) It is the intent of the general assembly that the technical assistance program not be used to document violations of or used in the enforcement of state laws or regulations.

Source: L. 92: Entire article added, p. 1331, § 1, effective July 1.

25-16.5-108. Pollution prevention fees.

- (1) (a) The department shall charge and collect pollution prevention fees from any reporting facility which is required to file a report with the department pursuant to the federal act as follows:
- (I) Facilities required to report pursuant to section 11002 of the federal act shall pay an annual fee not to exceed ten dollars per reporting facility.
 - (II) Each facility required to report pursuant to section 11022 of the federal act shall be required to pay an annual fee not to exceed ten dollars for every hazardous substance located at the facility in excess of the thresholds adopted by the United States environmental protection agency.
 - (III) Each facility required to report pursuant to section 11023 of the federal act shall pay an annual fee not to exceed twenty-five dollars for every extremely hazardous substance located at the facility in excess of the thresholds adopted by the United States environmental protection agency.
- (a.5) The department shall charge and collect pollution prevention fees from any federal agency from which, pursuant to federal Executive Order No. 12856, as published in 58 Fed. Reg. 41981 (1993), the department has the authority to collect pollution prevention fees.
- (b) Any retail motor fuel outlet which is required to report pursuant to the federal act shall pay one-half of the fee set forth in paragraph (a) of this subsection (1).
 - (c) Any single reporting organization which owns or operates multiple reporting facilities shall not be required to pay more than a total of one thousand dollars for all pollution prevention fees required by this section.
 - (d) Agricultural businesses which are required to report under the federal act are not required to pay the pollution prevention fees set forth in this subsection (1).

(e) It is the intent of the general assembly that the department of public health and environment collect all fees from any reporting facility required to report under the federal act, including the pollution prevention fee, in a single, centralized billing procedure.

(2) Any moneys collected pursuant to subsection (1) of this section shall be transmitted to the treasurer and credited to the pollution prevention fund created in section 25-16.5-109.

(3) (Deleted by amendment, L. 95, p. 182, § 4, effective April 7, 1995.)

Source: L. 92: Entire article added, p. 1332, § 1, effective July 1. L. 94: (1)(e) amended, p. 2793, § 537, effective July 1. L. 95: (1)(a) and (3) amended and (1)(a.5) added, p. 182, § 4, effective April 7.

25-16.5-109. Pollution prevention fund - created.

(1) There is hereby created in the state treasury the pollution prevention fund. Any moneys collected pursuant to section 25-16.5-108 shall be credited to such fund. In accordance with section 24-36-114, C.R.S., all interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(2) The moneys generated from the pollution prevention fees pursuant to section 25-16.5-108 shall be annually appropriated to the department of public health and environment for allocation to the pollution prevention advisory board created in section 25-16.5-104 for contracting for pollution prevention activities programs as set forth in section 25-16.5-106 and for the purpose of making grants under the technical assistance program as set forth in section 25-16.5-107 and as directed by the pollution prevention advisory board created in section 25-16.5-104. None of the moneys in the fund shall be used for the enforcement of any state law or regulation.

Source: L. 92: Entire article added, p. 1333, § 1, effective July 1. L. 94: (2) amended, p. 2793, § 538, effective July 1.

25-16.5-110. Report to the general assembly. (Repealed)

Source: L. 92: Entire article added, p. 1333, § 1, effective July 1. L. 96: Entire section repealed, p. 1261, § 165, effective August 7.